

Testimony of Edith McClure, Member, Executive Committee
Family Law Section of the Connecticut Bar Association
Raised Bill No. 5524, Section 4 (b) (1)
**An Act Concerning the Recommendations of the Law
Revision Commission with Respect to the Alimony
Statutes**
Judiciary Committee
March 31, 2014

My name is Edith McClure. I am an attorney who has practiced in the area of divorce and family law for over 30 years. I have been a member of the Family Law Section Executive Committee for most of those years. The Family Law Section of the CBA consists of over 700 members who have a great interest in bills affecting dissolution of marriage.

I am here today to testify in opposition to Section 4 (b) (1) of Raised Bill No. 5524 **On behalf of the section, I respectfully request that the Judiciary Committee revise Raised Bill No. 5524 by eliminating Section 4 (b)(1) for the following reasons.**

In general, post judgment modification of an alimony award requires a showing of a substantial change of the financial circumstances of the former spouses. Conn. Gen. Stat. 46b-82(b), as it currently exists, provides that if the person seeking modification of the award of alimony proves that the recipient of alimony is living with another person under circumstances that alter the financial needs of the recipient, the court may suspend, reduce or terminate or the judgment as to alimony. This eliminates the requirement that the change in circumstances be substantial.

Section 4(b)(1) would shift the focus from a proof of a cohabitation that alters the financial needs of the recipient to proof that the recipient is living with another person in a "marriage- like" relationship over a period of 6 months. If the person seeking modification can prove such a relationship, the burden shifts and the recipient must show why the payment of alimony should not be modified.

This proposed change brings back an era, prior to the early 1970's when a person seeking a divorce had to prove that their spouse was "at fault". The legislature in its wisdom changed the standard to a requirement that one of the parties must state that the marriage has broken down

irretrievably. Under the old fault requirements, testimony was required, often requiring testimony by private investigators, as to this fault. There are reported cases where a divorce was denied because both parties were judged to be at fault.

In addition to the fact that a "marriage-like" relationship is not defined in the proposed bill, proof of a "marriage-like" relationship would require testimony similar to that required under the old fault grounds for divorce.

Additionally, if a "marriage-like" relationship is proven, the burden shifts to the recipient to prove a negative; why the alimony award should not be modified, suspended, reduced or terminated.

The proposed change in the statute, changes the focus from financial need to fault. Given that the level of emotion that accompanies divorce often continues post judgment, one can image a situation where a disgruntled payor of alimony continuously seeks evidence of a "marriage-like" relationship well after the divorce is final.

The family Law Section of the Connecticut Bar respectfully requests that the Judiciary Committee consider redrafting the bill to eliminate the proposed Sec. 4 (b)(1) of the bill to address the concerns we have raised before favorably reporting on it.

Thank you for allowing me the opportunity to comment on Raised Bill No. 5524. I would be glad to answer any questions you may have.